



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/656,448	09/05/2003	Ulrich Buttel	0291MH-42317	8463

7590 06/29/2005

Melvin A. Hunn
HILL & HUNN, LLP.
Suite 1440
201 Main Street
Fort Worth, TX 76102-3105

EXAMINER

OSELE, MARK A

ART UNIT	PAPER NUMBER
----------	--------------

1734

DATE MAILED: 06/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/656,448

Applicant(s)

BUTTEL ET AL.

Examiner

Mark A. Osele

Art Unit

1734

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☒ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. ____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Johnson. Johnson shows an apparatus and method of sealing and cutting a film web lengthways comprising two layers of film laying on each other and made of thermoplastic material characterized by the web led over the surface of a heating element to weld the two films (column 3, lines 1-12) followed by cutting the seam by a blade (column 4, lines 35-45) such that at least two partial film tubes are created (column 1, lines 13-25).

Regarding claim 5, electrical static charge inherently fixes layers of a flattened thermoplastic film tube to each other.

Regarding claim 7, the film web runs over an angular range of a roller, 15.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 1734

4. Claims 8-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson in view of Osborn, Jr. and Tumminia. Osborn, Jr. shows a sealing and cutting element for a flattened tube to comprise a heated wire (column 2, lines 6-20). It would have been obvious to one of ordinary skill in the art at the time the invention was made to replace the sealer and cutter of Johnson with the heated wire of Osborn, Jr. because these are shown to be functionally equivalent alternate expedients for sealing and cutting a flattened tube. Furthermore, Tumminia shows that a heated wire for cutting and sealing thermoplastic material can reside in a cut-out region of a roller (Fig. 2). It would have been obvious to one of ordinary skill in the art at the time the invention was made to locate the sealing and cutting wire of the invention of the references as combined in a cut-out region of the roller because Tumminia shows that the heated wire can emerge from the cut-out region to cut and seal the webs (column 1, lines 58-68) but would be protected otherwise. In addition, a recessed heated wire would be safer for an operator than an exposed wire.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 7-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 7 recites the limitation "the extent" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 8 uses the language "a cut-out in the extent" which is not idiomatic English. Furthermore the phrase "which comes out of the roller surface" is unclear as to whether it requires movement of the heating element or not.

Claim 9 states that the heating element is both "round" and "flat" which are contradictory.

Claim 10 uses the language "in extent direction of the roller" which is not idiomatic English.

Claim 13 uses the language "the roller is ordered one pulley each" which is not idiomatic English. Claim 13 cannot be understood and is therefore not examined.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Olson and Krueger show longitudinal sealing and cutting of overlapping thermoplastic webs.

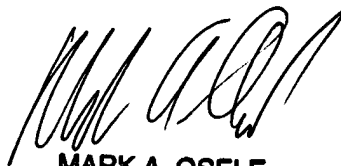
8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark A. Osele whose telephone number is 571-272-1235. The examiner can normally be reached on M-F 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Fiorilla can be reached on 571-272-1187. The fax phone

Art Unit: 1734

number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



MARK A. OSELE
PRIMARY EXAMINER
June 27, 2005